

APPEAL NO. 042603
FILED NOVEMBER 29, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on September 8, 2004. The hearing officer determined that: (1) the appellant (claimant) sustained a compensable injury on (date of injury No. 1); (2) the claimant timely notified her employer of an injury; and (3) the claimant did not have disability as a result of an injury of (date of injury No. 1). The claimant appealed the disability determination based on sufficiency of the evidence. The respondent (carrier) responded, urging affirmance of the disability determination.

DECISION

Reversed and remanded.

DISABILITY

The evidence supports the hearing officers decision that the claimant did not have disability.

PROPER CARRIER

The carrier has sent a letter advising that it did not have coverage at the time of the date of injury and the Texas Workers' Compensation Commission (Commission) records support that assertion. While we do not consider matters raised for the first time on appeal, this matter must be considered in this case because it goes to our jurisdiction over this dispute. An additional complication in this case is the fact that the claim identified the date of injury as both (date of injury No. 2), and (date of injury No. 1). Because there are different carriers for these claimed dates of injury, an affirmance in this case could compromise the claimant's potential to join both carrier's in the dispute.

Accordingly, we reverse the hearing officer's decision on the injury, timely notice, and disability issues, and remand for the hearing officer to determine the proper carrier for the date of injury claimed in this case, then determine the injury, timely notice and disability issues. If the proper carrier was not present at the CCH, the parties should be afforded the opportunity to present evidence on the disputed issues.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and

holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge